IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.315 OF 2007

Code Red Films Pvt. Ltd. .. Plaintiffs.

Versus

MC Caan Erickson India Pvt. Ltd. .. Defendants.

Mr.Jagdish K. Hegde for plaintiffs.

None for defendant.

CORAM : Dr.D.Y.CHANDRACHUD, J.

24TH APRIL, 2007.

P.C.:

1. The plaintiffs in pursuance of an order placed by the defendants produced advertisements for which the following bills were raised : -

Bill No.	**Date**	**Amount (Rs.)**
CR/026/04	31.3.2004	9,50,000/-.
CR/09/04	12.5.2004	3,00,000/-.
CR/19/04	26.6.2004	70,000/-.

2. The defendants made a part payment of Rs.4.75 lacs towards the first bill, leaving a balance of Rs.4.75 lacs and Rs.1.50 lacs towards the second bill, leaving a balance of Rs.1.50 lacs thereunder. Consequently, a total part payment of Rs.6.25 lacs was made, leaving a balance of a principal sum of Rs.6.95 lacs. The plaintiffs by their letters dated 02/12/2004, 28/02/2005, 04/03/2005, 16/05/2005 and 31/07/2006 called upon the defendants to repay the outstandings together with interest @15% per annum. No payment has been made thereafter.

3. The defendants have been served with the writ of summons. An affidavit of service has been filed. The defendants have not entered appearance and there is no defence to the claim in the suit. The claim of the plaintiffs falls within the purview of Order 37 of the Code of Civil Procedure, 1908 since it is based on a written contract. The defendants have made part payments towards their liability. The plaintiffs have placed on the record a compilation of original documents on the basis whereof the claim in the suit is established. Even otherwise, the defendants having failed to enter appearance despite the service of the writ of summons, the plaintiffs would be entitled to a decree under the

provisions of Order 37 of the Code of Civil Procedure, 1908.

4. The suit shall accordingly stand decreed in the amount of Rs.6.95 lacs. The plaintiffs would be entitled to interest @12% per annum from the respective due dates of the bills to the date of institution of the suit and from the date of the institution of the suit until payment or the realisation. Plaintiffs would be entitled to costs of the suit. Refund of Court fees, if any, as per Rules.